

**REMARKS**

Claims 10-13, 15 and 18-20 are pending in the application. Claims 1-13, 15 and 18 stand rejected. No claims have been amended or canceled. In light of the following remarks, Applicants earnestly solicit favorable reconsideration.

**On the Merits**

**Claim Rejections - 35 U.S.C. §103**

Claims 10-13, 15 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Nishioka et al.* (US Application Publication 2002/0041445), hereinafter referred to as *Nishioka*, in view of *Sekiyama* (US Application Publication 2003/0169516), hereinafter referred to as *Sekiyama*..

**Independent Claim 10:**

Independent claim 10 requires:

- <sup>1</sup>an image taking section for taking image;
- <sup>2</sup>a variable configuration mirror to be used for the image taking section having a reflecting surface variable in configuration...
- <sup>3</sup>an optical finder for visually confirming the image to be taken;
- <sup>4</sup>a variable configuration mirror to be used for the optical finder ...
- <sup>5</sup>a control section for controlling the conduction of electricity so as to avoid an overlap in time of the periods during which electricity is conducted respectively to the variable configuration mirror to be used for said image taking section and to the variable configuration mirror to be used for the said optical finder.

Regarding the 5th element of claim 10, the Examiner acknowledges that it is not disclosed by *Nishioka*, but contends that the feature would have been obvious in light of *Nishioka*. The Examiner points to paragraph [0421] which states:

When the action of the variable mirror 9J as a concave reflecting surface is weak and the action of the variable mirror 9K as a concave reflecting surface is strong, the finder works as a wide-angle Galilean finder....

The Examiner contends this passage discloses avoiding an overlap of the strength of the conduction electricity and that it would therefore be obvious to avoid any overlap of electricity. Applicants respectfully disagree. The reference itself appears to provide no teaching, suggestion or motivation for a person having ordinary skill in the art to modify the reference.

Also, the rationale of combining the references to provide a more effective means of adjusting the zoom and diopter, does not appear to be related to controlling the overlap of electricity to the variable mirrors.

Furthermore, Applicants note that *Nishioka* discloses using mirrors 93 and 94 for the image pickup device and mirrors 93 and 95 for the Keplerian finder. Thus, mirror 93 is used both for the image pickup device and the finder. Thus, it appears that when either the finder or image pickup device is adjusted, mirror 93 is also adjusted.

As such, it seems that an “overlap in time of the periods during which electricity is conducted respectively to the variable configuration mirror to be used for said image taking section and to the variable configuration mirror to be used for said optical finder” occurs. However, claim 10 specifically requires avoiding this scenario.

As such, Applicants respectfully submit that *Nishioka* does not disclose or fairly suggest the required features of claim 10.

The Examiner also contends that element five, as labeled above, is disclosed by *Sekiyama*, in paragraph [0347]. Here *Sekiyama* states:

Diopter control of the finder may be performed by transforming one variable mirror or transforming both variable mirrors at the same time. The transformation of one variable mirror makes quick diopter control possible whereas the transformation of both variable mirrors contributes to diopter control with well-reduced aberrations.

The Examiner contends this passage discloses adjusting variable configuration mirrors independently. Applicants respectfully disagree with the Examiner. In the Office Action the Examiner states that the “system may be performed by transforming one variable mirror *at a time*.” Emphasis added. However, the passage simply states, “transforming one variable mirror.” The reason to change just one mirror, according to the passage is that it makes quicker diopter control possible.

The reference actually teaches away from the claimed invention when it discloses changing both variable mirrors at the same time.<sup>1</sup> This is the opposite to what is required by claim 10, avoiding an overlap of conduction electricity between the variable mirrors. Thus, it does not appear that *Sekiyama* discloses or fairly suggests the required features of claim 10.

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<sup>1</sup> See paragraph [0374].

Independent Claim 11:

As independent claim 11 contains a similar to feature as that discussed above regarding claim 10, namely a “control section,” the arguments presented above regarding claim 10 also apply to claim 11.

Dependent Claim 12:

As claim 12 depends from claim 11, the arguments presented above regarding claim 11 also apply to claim 12.

Independent Claim 13:

Independent claim 13 contains a similar feature to that discussed above in independent claim 1, specifically, “the period for conduction of electricity for at least one variable configuration mirror of the plurality of variable configuration mirrors does not overlap in time the period for the conduction of electricity for the other configuration mirrors.”

As such, the arguments presented above regarding claim 10 and the control section, also apply to independent claim 13.

Independent Claim 15:

Independent claim 15 requires a similar feature to that discussed above regarding claim 10, “a control section for controlling the conduction of electricity so that the periods during which electricity is conducted respectively to the plurality of variable configuration mirrors do not overlap each other in time.”

As such, the arguments presented above regarding claim 10 and the control section, also apply to independent claim 15.

Independent Claim 18:

Independent claim 18 requires a similar feature to that discussed above regarding claim 10, “said control section controls the conduction of electricity so that the periods during which electricity is conducted respectively to the plurality of said variable configuration mirrors do not overlap each other in time.”

As such, the arguments presented above regarding claim 10 and the control section, also apply to independent claim 18.

In view of the aforementioned remarks, Applicants submit that the application is in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants’ undersigned attorney to arrange for an interview to expedite the disposition of this case.

Application No.: 10/671,827  
Art Unit: 2622

Response under 37 CFR §1.116  
Attorney Docket No.: 031216

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,  
**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**

A handwritten signature in black ink, appearing to read 'DCH', is positioned above the printed name of the attorney.

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